

Report Date: December 14, 2010

**United States District Court**

for the

**Eastern District of Washington**FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DEC 17 2010

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON**Petition for Warrant or Summons for Offender Under Supervision**

Name of Offender: Sean J. Rushing

Case Number: 2:08CR00173-003

Address of Offender: Unknown (Absconder)

Name of Sentencing Judicial Officer: The Honorable Robert H. Whaley, Senior U.S. District Judge

Date of Original Sentence: 09/03/2009

Original Offense: Conspiracy to Utter Counterfeit Securities of an Organization, 18 U.S.C. §§ 371 and 513

Original Sentence: Prison - 12 months;  
TSR - 36 months

Type of Supervision: Supervised Release

Asst. U.S. Attorney: Timothy J. Ohms

Date Supervision Commenced: 03/18/2010

Defense Attorney: Timothy D. Trageser

Date Supervision Expires: 03/17/2013

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**PETITIONING THE COURT****To issue a warrant.**

The probation officer believes that the offender has violated the following conditions of supervision:

Violation Number      Nature of Noncompliance

1 &amp; 2

**Standard Condition # 2:** The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month.**Standard Condition # 6:** The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.**Supporting Evidence:** Mr. Rushing is considered in violation of his conditions of supervised release by failing to report to the probation office since December 5, 2010, and by failing to report a change of address since December 5, 2010.

Mr. Rushing has failed to report to the probation office and submit a written report since December 5, 2010. In addition, attempts to contact Mr. Rushing at his last reported address have been unsuccessful.

Mr. Rushing did contact the probation office by telephone in November 2010 to advise he was unemployed and did not have a stable residence. He was directed to report to the probation office to discuss further his situation.

Prob12C

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To date, Mr. Rushing has failed to report and his current whereabouts are unknown.

The U.S. Probation Office respectfully recommends the Court issue a warrant for the arrest of the defendant to answer the allegations contained in this petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 12/14/2010

s/Samuel Najera

Samuel Najera  
U.S. Probation Officer

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#### THE COURT ORDERS

- ☐ No Action
- ☒ The Issuance of a Warrant
- ☐ The Issuance of a Summons
- ☐ Other



Signature of Judicial Officer

December 16, 2010

Date

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF WASHINGTON  
PROBATION OFFICE

**SCOTT M. MORSE, SR.**

CHIEF PROBATION OFFICER  
U.S. COURTHOUSE  
920 W Riverside, Room 540  
PO BOX 306  
SPOKANE, WA 99210-0306  
(509) 742-6300 / fax (509) 742-6339

December 14, 2010

**BRANCH OFFICES**

FEDERAL BUILDING  
25 S. 3<sup>rd</sup> Street, Room 326  
PO BOX 1791  
YAKIMA, WA 98907-1791  
(509) 574-5535 / fax (509) 574-5539

FEDERAL BUILDING  
825 Judwin Ave, Suite 170  
RICHLAND, WA 99352  
(509) 376-7467 / fax (509) 372-2590

REPLY TO Spokane

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DEC 17 2010

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

The Honorable Robert H. Whaley  
Senior U.S. District Judge  
Thomas S. Foley U.S. Courthouse  
920 W. Riverside  
Spokane, WA 99210



**RE: Rushing, Sean J.**  
**Dkt. No. 2:08CR00173-003**  
**Custody Status: Absconder**  
**Violation Report #1**

Dear Judge Whaley:

Attached for the Court's review is a petition for action on the above-captioned defendant. The circumstances of the alleged noncompliant behavior are reported therein.

**Compliance with Supervision Conditions:**

Mr. Rushing began his current term of supervised release on March 18, 2010. Since that time he has struggled with maintaining full-time employment and establishing a stable residence.

Mr. Rushing was compliant with drug testing requirements prior to absconding from supervision.

**Offender Characteristics:**

Mr. Rushing was living with various friends following his release from confinement but, has not established a personal residence of his own. His last verified employment was from July thru August 2010, with Blackjack Business Services, LLC., in Spokane.



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**Statutory and Guideline Provisions:**

Pursuant to 18 U.S.C. § 3583(e)(3), the Court may revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve on any such revocation more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than 1 year in any other case.

Pursuant to 18 U.S.C. § 3583(h), when a term of supervised release is revoked and the defendant is required to serve a term of imprisonment, the Court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release less any term of imprisonment that was imposed upon revocation of supervised release.

As a cost-containment measure, in March 2004, the Judicial Conference endorsed a non-binding policy that substantially restrains enhanced sentencing authority. This policy was incorporated in our agency's Monograph 109, *The Supervision of Federal Offenders*:

*Although it is statutorily permissible to impose a new term of supervised release in most post-April 30, 2003, cases, officers should ordinarily recommend a new supervised release sentence only when the prison time imposed for the current violation, plus any prison time imposed for a prior revocation(s) of this term of supervised release, is less than the maximum prison term set forth at 18 § 3583(e)(3).*

If revoked, the following options are available for sentencing:

**Original Criminal History Category:** IV

**Grade of Violation:** C

**Class of Offense:** Class D felony

	<b><u>Statutory Provisions</u></b>	<b><u>Guideline Provisions</u></b>
<b>CUSTODY:</b>	Not more than 2 years	6-12 months
<b>SUPERVISED RELEASE:</b>	36 months minus custody imposed	36 months minus custody imposed

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It is respectfully recommended that the Court issue a warrant requiring Sean J. Rushing to appear to answer to the allegation in the attached petition.

Respectfully submitted,

Scott M. Morse, Sr.

Chief U. S. Probation Officer

By:	<u>s/Samuel Najera</u>	<u>12/14/2010</u>
	Samuel Najera	Date
	U. S. Probation Officer	

APPROVED BY:

<u>s/Gayla S. Hunt</u>	<u>12/14/2010</u>
Gayla S. Hunt	Date
Supervising U.S. Probation Officer	

SN:csg

## UNITED STATES DISTRICT COURT

for

Eastern District of Washington

U.S.A. vs Sean J. Rushing

Docket No. 2:08CR00173-003

TO:<sup>1</sup> Any United States Marshal or Any Other Authorized Law Enforcement Officer

## WARRANT FOR ARREST OF PROBATIONER/SUPERVISED RELEASEE

You are hereby commanded to arrest the within-named probationer/supervised releasee and bring him or her, forthwith, before the United States District Court to answer charges that he or she violated the conditions of his or her supervision imposed by the court.

NAME OF SUBJECT		SEX	RACE	AGE
Sean J. Rushing		Male	Black or African American	28
ADDRESS (STREET, CITY, STATE) (Last known) 5015 S. Regal #M1102, Spokane, WA 99223				
SENTENCE IMPOSED BY (NAME OF COURT) United States District Court, Eastern District of Washington			DATE IMPOSED September 3, 2009	
TO BE BROUGHT BEFORE (NAME OF COURT, CITY, STATE) United States District Court, Spokane, WA				
CLERK	(BY) DEPUTY CLERK	DATE		
James R. Larsen	<i>J. Emerson</i>	12-17-10		

## RETURN

Warrant received and executed.	DATE RECEIVED	DATE EXECUTED
EXECUTIVE AGENCY (NAME AND ADDRESS)		
NAME	(BY)	DATE

<sup>1</sup> Insert designation of officer to whom the warrant is issued, e.g., "any United States Marshal or any other authorized officer," or "United States Marshal for \_\_\_\_\_ District of \_\_\_\_\_;" or "any United States Marshal;" or "any special agent of the Federal Bureau of Investigation;" or "any United States Marshal or any special agent of the Federal Bureau of Investigation;" or "any agent of the Alcohol Tax Unit."